

ORIGINAL

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HOLLY KOLIOPOULOS

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUL 24 2006
at 10 o'clock and 8 min. M
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 05-00106-02 ACK
)	
Plaintiff,	)	REPLY MEMORANDUM IN
	)	SUPPORT OF MOTION IN
vs.	)	LIMINE TO EXCLUDE
	)	EVIDENCE OF NONVERBAL
HOLLY KOLIOPOULOS, (02)	)	TESTIMONY AND
	)	OBSERVATIONS OF
Defendant.	)	DEFENDANT PRIOR TO
	)	<u>MIRANDA</u> WARNING FILED
	)	JULY 5, 2006; CERTIFICATE
	)	OF SERVICE
)	
	)	Date: July 27, 2006
	)	Time: 10:00 a.m.
	)	Judge: Alan C. Kay

REPLY MEMORANDUM IN SUPPORT OF
MOTION IN LIMINE TO EXCLUDE EVIDENCE OF
NONVERBAL TESTIMONY AND OBSERVATIONS OF DEFENDANT
PRIOR TO MIRANDA WARNING FILED JULY 5, 2006

COMES NOW Defendant No. 02 HOLLY KOLIOPOULOS

(hereinafter "Koliopoulos"), by and through her counsel, Harlan Y. Kimura, and hereby submits this Reply Memorandum In Support Of Motion In Limine To Exclude Evidence Of Nonverbal Testimony And Observations Of Defendant Prior To Miranda Warning filed herein on July 5, 2006 (hereinafter "Miranda Motion").

I. REPLY ARGUMENT.


The Miranda Motion is NOT requesting an order from this Honorable Court prohibiting the Government from introducing evidence concerning Koliopoulos' demeanor and her physical state. See United States' Response And Opposition To Defendant Koliopoulos' Motions In Limine filed on July 19, 2006 (hereinafter "Memo In Opp") at 4. As correctly argued by the Government, these observations "are not testimonial in nature and are not hearsay." Id. Instead, the Miranda Motion is seeking to exclude observations and/or conclusions made by SA Feeley and/or SSA Marceleno based upon the statements made by Koliopoulos that have been SUPPRESSED. Miranda Motion at 3-4. It cannot be seriously disputed that neither SA Feeley nor SSA Marceleno would have been able to conclude that Koliopoulos: (a) gave conflicting answers; (b) appeared to be withholding information; and/or (c) was evasive, almost belligerent, in answering questions, without having the benefit of observing the very statements that were

suppressed by Judge Gillmor. To hold otherwise would undermine Judge Gillmor's oral suppression order of April 26, 2005.

II. CONCLUSION.

Based upon all the Miranda Motion and all the foregoing, Koliopoulos respectfully requests her Motion In Limine To Exclude Evidence Of Defendant's Nonverbal Testimony And Observations Of Defendant Prior To Miranda Warning be GRANTED because the same are derived directly from her SUPPRESSED statements obtained unconstitutionally after the officers made initial contact with her, but before she was advised of her Miranda Rights.

DATED at Honolulu, Hawaii, JUL 24 2006.


HARLAN Y. KIMURA
Attorney for Defendant No. 02
HOLLY KOLIOPOULOS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly served upon the following parties listed below, in the manner described thereto, at their last-known addresses, on JUL 24 2006.


By U.S. Mail By Hand Delivery

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Attorneys for Plaintiff
UNITED STATES OF AMERICA

DATED at Honolulu, Hawaii, JUL 24 2006.



HARLAN Y. KIMURA
Attorney for Defendant No. 02
HOLLY KOLIOPOULOS